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BLAKELY SOKOLOFF TAYLOR & ZAFMAN 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040				
			EXAMINER SAXENA, AKASH	
			ART UNIT 2128	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	Application No. 10/025,268	Applicant(s) WANT ET AL.	
	Examiner Akash Saxena	Art Unit 2128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 June 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4,9,10,20,21,25-27,29,30 and 34-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,9,10,20,21,25-27,29,30 and 34-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claim(s) 1-4, 9-10, 20-21, 25-27, 29-30 and 34-36 has/have been presented for examination based on amendment filed on 27th May 2007.
2. Claim(s) 1, 2, 2021, 29 and 30 is/are amended.
3. Claim(s) 1-4, 9-10, 20-21, 25-27, 29-30 and 34-36 remain rejected under 35 USC § 112.
4. Claim(s) 1-4, 9-10, 20-21, 25-27, 29-30 and 34-36 remain rejected under 35 USC § 102.
5. The arguments submitted by the applicant have been fully considered. Claims 1-4, 9-10, 20-21, 25-27, 29-30 and 34-36 remain rejected and this action is made FINAL.

The examiner's response is as follows.

#### ***Claim Objection***

6. Claim 10 has incorrect claim status identifier of "currently amended", however there is no indication of an amendment to the claim, which could have been rejected for non-complaint amendment.

**Response to Applicant's Remarks & Claim Rejections - 35 USC § 112¶1st**

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1-4, 9-10, 20-21, 25-27, 29-30 and 34-36 are rejected under 35 U.S.C. 112, first paragraph.

**(Argument 1)** Applicant has argued that the claim language rejected (specifically "coupled" & simultaneously) is not present in the claim.

**(Response 1)** Examiner acknowledges the oversight, however the clear rejection is presented to address the issue. The "portable electronic device 14 may emulate the electronic apparatus on any one of the plurality of different access devices" (Specification Pg.5 ¶2) seems to be the only enablement supported by specification and the specification does not have support for currently amended claimed limitation "a portable device capable of emulating the plurality of access devices" (Claim 1). Claim 3 seems to clarify the limitation that portable device emulates multiple access devices at the same time, as claimed "wherein the portable device is further to simultaneously emulate multiple access devices of the plurality of devices." Hence the enablement rejection is maintained for the claim 3. Further applicant has argued support from the specification [Pg.5 first paragraph, Pg. 7 first paragraph] to show that "the portable device is further to simultaneously emulate multiple access devices of the plurality of devices".

Specification Pg.5 first paragraph states:

"...various other forms e.g., the access device may be personal digital assistant (PDA) or any other electronic hardware that typically provides a visual and/or audio output to a user. Thus, for the purposes of this specification, the term "access device" should be interpreted broadly to include any man/machine interface that a user may interact with irrespective of its processing

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capabilities. Further, the processing capabilities and IO hardware may vary from access device to access device."

Specification Pg.7 first paragraph states:

The portable electronic device 14 may be configured to emulate one or more different types of electronic apparatus and a user may thus select any one or more of the apparatus thereby to enjoy its functionality when in proximity to the access device 12. For example, the user may select an electronic apparatus to emulate by using the switches 70 in a menu driven fashion as described above. For example, the electronic apparatus may be an MP3 player and, accordingly, the portable electronic device 14 may thus emulate an MP3 player. Accordingly, MP3 files which define emulation data may be stored in the storage module 38 as well as display data in the form of skins which, when displayed on the display 36, provide a display layout 16 which substantially simulates a physical appearance of an MP3 player. As described in more detail below, the portable device 14 may then communicate the display data and the emulation data to the access device 12, which may then provide an audio output of the MP3 files under control of the portable electronic device 14.

None of the cited sections above disclose "simultaneously emulat[ing] multiple access devices". Examiner maintains the rejection for at least the reasons above.

**(Argument 2)** Applicant has argued the following:

Similarly, and specifically, support for the claimed matter in claim 2 is found on page 4, paragraph 1, of the Specification, which provides a "display layout, which substantially resembles and simulates the physical appearance of the electronic apparatus."

**(Response 2)** Specification Pg.4 first paragraph discloses:

Referring to the drawings, reference numeral 10 generally indicates an emulation system, in accordance with the invention, for emulating electronic apparatus. The system 10 includes a separate access device 12 that communicates in a wireless fashion with a portable electronic device 14. As described in more detail below, the portable electronic device 14 emulates the functionality provided by the electronic apparatus and communicates display data to the access device 12, which, in turn, provides a display layout 16 (see Figure 5) which substantially resembles and simulates the physical appearance of the electronic apparatus. The display layout 16 provided in Figure 5 resembles a personal digital assistant (PDA) but, it is to be appreciated, that electronic apparatus in any form, e.g., an MP3 player, personal information management systems (PIMS), TV remote controls, or any other electronic apparatus may be emulated by the system 12.

The specification does not seem to be enabled to "portable device comprises a display device to resemble and simulate physical appearance of the first and second access devices"

(Implied to concurrently or simultaneously). Examiner urges applicant to clearly point out support for this limitation in the specification. The cited section above does not seem to teach this limitation.

***Response to Applicant's Remarks & Claim Rejections - 35 USC § 112<sup>12nd</sup>***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 1, 20, and 29 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding Claim 1, 20 and 29 (New Updated)

Previously the rejection is made stating:

Claims 1, 20 and 29 disclose limitation of having first and a second access device with a limitation stating "seamlessly continuing to emulate the data as displayed on the second access device and previously being displayed on the first access device". It is unclear what seamlessly implied – is the transition from one type of emulation seamless or whether both emulations are running together. Their respective dependent claims are rejected for the same reasons. There seem to be implied meaning that the portable device is communicating with both devices.

Applicant has amended to seemly clarify that seamlessly displaying emulation of previous device to current device involves switching the display. Examiner withdraws the rejection. However now it is unclear if the same data is present on the first access device previously displayed as shown on the second access device currently displayed – still unclear what is seamless if that is the case.

Regarding Claim 1-4, 9-10, 20-21, 25-27, 29-30 and 34-36

It is unclear what is access device is defined as – in the remarks access device as defined by applicant could be a PC, PDA or any other electronic hardware that provides audio/video output. If that is the case what is considered to be a portable device is unclear, because specification does not seem to have a PDA emulating a PDA or any similar example. A clear definition of terms "Access Device", "Portable

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Device", "First and Second Access Device" being seamlessly emulated is requested from specification.

Regarding Claim 1 (New)

Firstly, Claim 1 amends limitation "a portable device capable of emulating the plurality of access devices." All this limitation requires is that a reference does not prohibit a portable device from doing the recited acts. It does not positively recite any functionality to occur in the portable device. As such, a 112, 2nd, rejection for failing to particularly point out and distinctly claim their invention (it's unclear what Applicant's intended metes and bounds of the claim are, since the claim appears to cover anything and everything that does not prohibit actions from occurring) is made here.

Secondly, claim 1 being a system claim the steps listed after the above-mentioned step, are understood as *intended use* of the portable device. MPEP 2111.02 states that

"During examination, statements in the preamble reciting the purpose or intended use of the claimed invention must be evaluated to determine whether the recited purpose or intended use results in a structural difference (or, in the case of process claims, manipulative difference) between the claimed invention and the prior art. If so, the recitation serves to limit the claim. See, e.g., *In re Otto*, 312 F.2d 937, 938, 136 USPQ 458, 459 (CCPA 1963)"

Although this limitation is not in the preamble it does not cause any structural difference in the system claim.

***Response to Applicant's Remarks for 35 U.S.C. § 102***

9. Claims 1-4, 9-10, 20-21, 25-27, 29-30 and 34-36 were rejected under 35

U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,292,186 issued to Lehman et al (Lehman hereafter).

Regarding Claim 1

**(Argument 1)** Applicant has argued the following:

Furthermore, Lehman's switching between applications such as a calculator or clock is not emulation. Emulation is not simply executing an application as in Lehman. For example, the Specification at page 4 provides an example of emulation as substantially resembling and simulating a physical appearance. In addition, Lehman discloses modifying GUIs of various applications for physically challenged users (presumably visually challenged users). Applicants submit that modifying GUIs for applications is not evaluating an access device, as in claim 1.

**(Response 1)** Examiner disagrees with the applicant as applications such as clock or calculator, in Lehman, are substantially resembling and simulating a physical appearance of the clock or calculator. Applicant has further alleged "modifying GUIs for applications is not evaluating an access device" without providing any argument or support for this allegation. Examiner maintains the rejection.

**(Argument 2)** Applicant has argued that claim 1 is not taught with no support for the argument.

**(Response 2)** Examiner disagrees with the applicant's allegation.



***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**10. Claims 1-4, 9-10, 20-21, 25-27, 29-30 and 34-36 are rejected under 35**

**U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,292,186 issued to**

**Lehman et al (Lehman hereafter).**

**Regarding Claim 1 (Updated 9/6/07)**

Lehman teaches a portable device (as PDA) or in general a Universal Information Appliance (UIA) (Lehman: Col.3 Lines 40-49) coupled with a plurality of access devices (Other wirelessly controlled Devices) capable of emulating plurality of access devices (Lehman: Col.1 Lines 27-67 – garage door remote, TV remote etc interfaces). Lehman teaches *selecting a first access device from the plurality of access devices* (Lehman: Col.4 Line 66- Col5 Line 7; Col.3 Lines 64-Col.4 Lines 10; Col.1 Lines 42-57 – selecting between a TV remote and garage remote executing different functions and having interface) *to be emulated at the portable device*, as a plural graphical user interface (GUI) instantiations (Lehman: Col.3 Lines 50-58), *when the portable device is within a first wireless communication range of the first access-devices device* (Lehman: Col.4 Line 66- Col5 Line 7). Lehman also teaches

*emulating the first access device the emulating of the access device including emulating data as displayed on the access device* (Lehman: Col.3 Lines 50-58).

Lehman teaches emulation is running as an application on the portable device (Lehman: Col.3 Line 50-Col.4 Line 10). *A skilled artisan in the art of mobile computing knows various GUI means for switching to select between applications.*

Shown below are various applications such as calculator, electronic address book, digital clock etc, as evidentiary support is application interface from Palm Pilot Handbook 1997<sup>1</sup>. Although these examples are not emulating in context on current application – they are used to illustrate the application can be switched seamlessly on the portable device<sup>2</sup>. Lehman teaches such application design for PDA like Palm Pilot (Lehman: Col.3 Lines 40-49) as well as windows CE (Lehman: Col.1 Lines 35-37). Lehman also teaches an embedded system to emulate the access device selected from the plurality access devices (Lehman: Fig.2-3 Col.5 Lines 8-47; devices such as TV remote, Garage Door opener, GUI application tailored for users with physical impediment - Col.1 Lines 42-67; Col.4 Lines 20-24; Col.4 66-Col.5 Line 7; Col.3 Lines 12-15; Col.3 Line 64-Col.4 Line 2).

Lehman teaches first device as TV remote and second device and emulation thereof as Garage door opener for example (Lehman: Col.1 Lines 42-58). Portable devices like Palm and Windows CE can run multiple applications running seamlessly.

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<sup>1</sup> PalmPilot™ Handbook – 1997 – Pg.ii, 27-29

<sup>2</sup> U.S. Patent No. 6,401,059 – See Fig.2 of Palm device emulating 2 separate remotes (TV & VCR) as evidentiary support.

Regarding Claim 2 (Updated 9/6/07)

Lehman teaches portable device comprises a display device to emulating emulate a display layout to resemble and simulate physical appearance of the selected-first and second access-devices using a computer code written in MoDAL language (Lehman: Col.1 Lines 42-67; Col.3 Line 50 Col.4 Line 9; Col.5 Lines 48-59). Lehman teaches plural GUI instantiations for (Lehman: Col.3 Lines 50-57) which represents multiple GUI being rendered for access devices.

Regarding Claim 3

Lehman teaches controller causes the portable electronic device to simultaneously emulate multiple remote electronic devices from the plurality of remote electronic device (Lehman: Col.1 Lines 42-67Col.4 Lines 66-Col.5 Line 7; Col.3 Lines 12-15; Col.3 Line 64-Col.4 Line 2).

Regarding Claim 4

Lehman teaches emulating of the data comprises executing functions on the first and second access devices via the portable device (Lehman: Col.2 Lines 49-Col.3 Lines-16). Lehman teaches plural GUI instantiations for (Lehman: Col.3 Lines 50-57).

Regarding Claim 9

Lehman teaches a portable electronic device like Palm Pilot from 3Com (release 1997), which is known in the art to have features like a calculator and PDA (Lehman: Col.3 Lines 40-49). Windows CE is known to support other disclosed applications as well.

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Regarding Claim 10

Lehman teaches the system of claim 1, wherein the portable device is further to determine whether the first and second access device is capable of providing the data for emulation to the access device (Lehman: Col.4 Line 66- Col.5 Line 7 & Lines 25-27).

Regarding Claim 20 (Updated as in claim 1)

Method claim 20 is directed towards the same limitations as the system claim 1 and is rejected for the same reason as claim 1.

Regarding Claim 21 (Updated as in claim 2)

Claim 21 is directed towards the same limitations as the claim 2 and is rejected for the same reason as claim 2.

Regarding Claim 25

Lehman teaches communication between the portable device and first and second (for that fact any number of) access device is established via Bluetooth (Lehman: Col.5 Lines 1-8).

Regarding Claim 26

Claim 26 is directed towards the same limitations as the claim 9 and is rejected for the same reason as claim 9.

Regarding Claim 27

Claim 27 is directed towards the same limitations as the claim 10 and is rejected for the same reason as claim 10.

Regarding Claim 29 (Updated as claim 1)

Claim 29 is directed towards the same limitations as the claim 1 and is rejected for the same reason as claim 1.

Regarding Claim 30 (Updated as in claim 2)

Claim 30 is directed towards the same limitations as the claim 2 and is rejected for the same reason as claim 2.

Regarding Claim 34

Lehman teaches communication between the portable device and first and second (for that fact any number of) access device is established via Bluetooth (Lehman: Col.5 Lines 1-8).

Regarding Claim 35

Claim 35 is directed towards the same limitations as the claim 9 and is rejected for the same reason as claim 9.

Regarding Claim 36

Claim 36 is directed towards the same limitations as the claim 10 and is rejected for the same reason as claim 10.

***Conclusion***

**11. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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**Communication**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akash Saxena whose telephone number is (571) 272-8351. The examiner can normally be reached on 9:30 - 6:00 PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamini S. Shah can be reached on (571)272-2279. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Thursday, September 06, 2007

  
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